In the High Court of Punjab and Haryana at Chandigarh.

Civil Revision No.4777 of 2006.

Date of decision:29.9.2006.

Kavita.

...Petitioner.

Versus

Mount View Senior Secondary School and another.

...Respondents.

...

Coram: Hon'ble Mr. Justice S. N. Aggarwal.

...

Present: Mr.Rakesh Nehra Advocate for the petitioner.

Mr.Naveen Kaushik, Advocate for respondent No.1.

Mr.Sanjiv Ghai Advocate for respondent No.2.

...

Judgment.

S. N. Aggarwal, J.

Kavita petitioner passed +1 examination in 2005 being a student of Mount View Senior Secondary School (respondent No.1). Her examination form was filled in for appearing in +2 examination to be conducted by the Haryana School Education Board, Bhiwani (in short Education Board) (respondent No.2). It was sent to the Education Board. Roll number was received. The +2 examination was to start from 8.3.2006 and the paper of Mathematics was scheduled to be held

on 13.3.2006. However, she did not appear in the said examination. She applied through the school (respondent No.1) to the Education Board (respondent No.2) for correction of her subject from Math to Biology but this prayer was declined by respondent No.2. She filed a civil suit on 18.3.2006 and also filed an application for interim relief. Under the order dated 28.3.2006 passed by the learned trial Court on the application for interim relief, the petitioner appeared in the Biology paper provisionally which took place on 28.3.2006 of +2 examination.

The Education Board filed an appeal against the order. It was accepted by the learned Lower Appellate Court vide order dated 21.8.2006 and the interim relief granted by the learned trial Court to the petitioner for appearing in Biology paper of +2 examination provisionally was set aside.

After appearing in +2 examination of Biology paper, the petitioner also applied to the learned trial Court for directing Education Board to declare her result. The said application was dismissed by the learned trial Court vide order dated 21.8.2006.

The petitioner filed the present petition against the order dated 21.8.2006 passed by the Court of learned Additional District Judge, Jhajjar by which the interim relief granted by the trial Court was vacated and the order dated 21.8.2006 passed by the learned Civil Judge (Junior Division), Bahadurgarh by which the application of the petitioner for asking respondent No.2 to declare her result was dismissed.

The submission of learned counsel for the petitioner was that the petitioner had passed +1 examination from Government Girls Senior Secondary School, Bahadurgarh on 20.4.2005. The detailed mark sheet is Annexure P-4 according to which the petitioner was a student of Hindi (Core), English (Core), Physics, Chemistry and Biology. She got admission in +2 class in Mount View Senior Secondary School (respondent No.1), in the subjects of Physics, Biology and Chemistry besides compulsory subjects. Math was not filled by her as a subject of +2 class (Annexure P-5). She had been appearing in the quarterly examinations. In the first terminal examination, she passed the examination with Chemistry, Physics and Biology (Annexure P-6). In the second terminal examination also, she appeared in these three papers in the said school (Annexure P-6). She had been attending the classes meant for the students who had opted Biology as a subject and her attendance is marked in that class (Annexure P-7).

On the basis of these documents, the submission of learned counsel for the petitioner was that she was a student of Biology and,therefore, obviously she was to appear in the final examination in Biology subject and not mathematics subject. It was further submitted that this subject was wrongly added in place of Biology in the examination form of the petitioner by a clerk of the school. She is a victim of the clerical error made by the functionaries of respondent No.1.

On the other hand, the submission of learned counsel for respondent No.2 was that the admission form of the petitioner for appearing in +2 examination was submitted by the Principal of school-respondent No.1 in October,2005 in which mathematics was filled in as a subject in which the petitioner was to appear in +2 examination. This form was duly signed by the petitioner. Thereafter, the respondent-Education Board had also sent detailed instructions as to when corrections can be sought in the said examination form and according to it ADM (additions, deletions and modifications) were to be submitted by the Principal of respondent-school before 31.12.2005. It was further submitted that the ADM was filled by the Principal of the respondent-school and some corrections were suggested in the admission forms of other candidates but no correction was suggested in the examination form of the petitioner. It was also submitted that as per schedule of examinations, the petitioner was to appear in mathematics paper of +2 examination on 13.3.2006 but she did not appear and it was only thereafter that the Principal of the respondent-school sent intimation on 14.3.2006 that the petitioner is to appear in Biology paper of +2 examination and not in mathematics paper of +2 examination. The said request of the Principal of respondent-school was rejected by the Education Board vide their letter dated 17.3.2006.

It was further submitted that the petitioner had appeared in Biology paper of +2 examination under the Court order provisionally and this violates the rules and regulations governing the Education

Board for holding examinations in the various classes. It was further submitted that the learned Lower Appellate Court was justified in setting aside the order passed by the learned trial Court by which the petitioner was permitted to sit provisionally in Biology paper of +2 examination. It was also submitted that the learned trial Court was also justified in passing the order dated 21.8.2006 by which the prayer of the petitioner for declaration of her result was rejected. It was also prayed that there is no merit in the present petition and the same be dismissed.

The submission of learned counsel for respondent No.1 was there was a clerical error committed by the official of the respondent-school in filling the examination form of the petitioner and the said respondent has initiated action against the clerk who filled the examination form of the petitioner wrongly by showing her candidature in mathematics paper in place of Biology paper of +2 examination.

It was not denied by the respondents that the petitioner had passed +1 examination in Biology paper and she was not a student of Mathematic paper at all. It is also proved that the petitioner had joined +2 class in Biology paper and not in Mathematics paper. It was also proved that she had been attending the classes of Biology subject in the respondent-school and not of Mathematics class. It is also proved that the petitioner had appeared in first terminal examination conducted by the respondent-school in Biology subject. Similarly, she had appeared in second termination examination in Biology subject of +2 class and

not in Mathematics subject of +2 class.

From all this discussion, it is proved that the petitioner was not a student of Mathematics subject in +2 class.

It appears that an official of respondent-school who filled the examination form of the candidates, mentioned wrong subject of Mathematics in place of Biology in the examination form of the petitioner for appearing in +2 examination. The students were merely made to sign on those examination forms and, therefore, even if the examination form of Kavita petitioner is signed by her, that will not stop her to plead that there is a clerical error in her examination form. She is not estopped to challenge at this stage that she was a student of Biology subject and not of Mathematics subject and,therefore, she was to appear in Biology paper and not in Mathematics paper. Her case is strengthened by the fact that the respondent No.1, school has admitted that the official of the respondent-school has committed the error in filling the form of the petitioner.

Even if the instructions issued by the respondent-Education Board have not been complied with by the school-respondent No.1, the petitioner cannot be punished nor her career can be spoiled by the clerical error committed by the official of the respondent-school. The dismissal of petition on the technical plea taken by the respondent-Education Board would clearly amount to mis-carriage of justice to the petitioner who is not at all to be blamed for the mess created by the official of the respondent-school.

Accordingly, this petition is accepted. The impugned orders dated 21.8.2006 passed by the Additional District Judge, Jhajjar and by the Civil Judge (Junior Division), Bahadurgarh are set aside. The respondent-Education Board is directed to declare the result of the petitioner provisionally within a period of two weeks from today.

The learned trial Court is also directed to dispose of the suit within a period of six months.

Copies of this judgment be given to the learned counsel for the parties under the signatures of the Court Secretary.

September 29,2006. (S. N. Aggarwal)
Jaggi Judge